

REMARKS

Claims 1-3 are currently pending in the application. The specification was amended to include the status of the parent application. Claims 1-3 were rejected. The claims have not been amended in response to the present Office Action. Therefore, no new matter has been added. Below is a response to the Examiner's objection to the specification and rejection of claims 1-3 in the present Office Action.

Objections to the Specification

The specification was objected to because the first line did not include the status of the parent application. Applicant has amended the specification to include the patent number of the parent application. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the objection to the specification.

Claim Rejections - 35 U.S.C. § 103

Claims 1-3 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,559,423 B2 (Nguyen) in view of U.S. Patent No. 6,112,648 (Origane) and U.S. Patent No. 6,431,057 B1 (Leung). The Examiner admits that Nguyen fails to disclose a gravitational force of the food (i.e., weight) causing the cage to grip and center the food or how the cage is triggered. The Examiner relies upon Origane and Leung to allegedly teach these features and asserts that it would have been obvious to incorporate the food triggered cage engagement of Origane into the device of Nguyen and to incorporate the gravity-based lowering method of Leung into the method of Nguyen and Origane. Applicant respectfully traverses this rejection.

Applicant respectfully submits that, under 35 U.S.C. § 103(c), the Nguyen patent is disqualified as prior art against the present application because the Nguyen patent and the subject matter of the present application were, at the time the subject matter of the present application was invented, subject to an obligation of assignment to the same company (Hamilton Beach/Proctor-Silex, Inc.). M.P.E.P. 2146. Proof of this fact can be seen on the enclosed printout from the USPTO website, entitled "Patent Assignment Abstract of Title, for the Nguyen patent and the enclosed assignment for the present application. Specifically, as seen in the enclosures, the assignment for the Nguyen patent to Hamilton Beach/Proctor-Silex, Inc. is

recorded at Reel 012630, Frame 0924 and the assignment for the present application to Hamilton Beach/Proctor-Silex, Inc. is recorded at Reel 013063, Frame 0920.

Since the Nguyen patent has been disqualified as prior art under 35 U.S.C. § 103, Applicant respectfully submits that the present rejection of claims 1-3 over Nguyen in view of Origane and Leung is moot. Therefore, Applicant respectfully submits that the rejection under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

CONCLUSION

In view of the foregoing Amendment and Remarks, Applicant respectfully submits that the present application, including claims 1-3 is in condition for allowance and such action is respectfully requested.

Respectfully submitted,

Nhiem Viet Nguyen.

July 29, 2008 By: Martin T. Vozzaman, Reg. No. 58,877, for
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Enclosures: 1) Notice of Recordation of Assignment Document for the parent application of present application
2) Assignment for the parent application of present application
3) "Patent Assignment Abstract of Title" printout from the USPTO website for the Nguyen patent

SEPTEMBER 09, 2002

Under Secretary of Commerce For Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, DC 20231
www.uspto.gov

PTAS
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SEP 16 2002



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UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 06/28/2002

REEL/FRAME: 013063/0920
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

NGUYEN, NHIEM VIET

DOC DATE: 06/24/2002

ASSIGNEE:

HAMILTON BEACH/PROCTOR-SILEX, INC.
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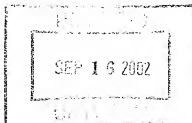
SERIAL NUMBER: 10185649

FILING DATE: 06/28/2002

PATENT NUMBER:

ISSUE DATE:

MARCUS KIRK, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS



ASSIGNMENT

In consideration of TEN DOLLARS (\$10.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, and intending to be legally bound hereby, I, **Nhiem Viet Nguyen**, of 5405 Olde Milbrooke Drive, City of Glen Allen and State of Virginia 23060.

Hereby sell, assign and transfer to HAMILTON BEACH/PROCTOR-SILEX, INC., a Delaware corporation, having a place of business at 4421 Waterfront Drive, City of Glen Allen, County of Henrico, State of Virginia, U.S.A., its successors, assigns, and legal representatives, our entire right, title and interest, for all countries, in and to any and all inventions or improvements which are disclosed and claimed, and any and all inventions or improvements which are disclosed but not claimed, in the application for United States Letters Patent, Serial No. _____, titled **Gravity Biased Grill Wires**, (further identified as Docket No. 10499.210), filed in the United States Patent and Trademark Office on _____, and in and to said application and all continued prosecution, divisional, continuing, substitute, renewal, reissue, reexamination, and all other applications for letters patent, inventor's certificates, design registrations or the like intellectual property rights, in all countries which have been or shall be filed on any of said inventions or improvements disclosed in said application, and in and to all original and reissued patents, inventor's certificates, design registrations or the like intellectual property rights, which have been or shall be issued on said inventions or improvements;

Authorize said Assignee, HAMILTON BEACH/PROCTOR-SILEX, INC., or its attorneys to insert above the filing date and serial number of said application when the same are known;

Authorize and request the Commissioner of Patents and Trademarks to issue to said Assignee, HAMILTON BEACH/PROCTOR-SILEX, INC., its successors, assigns and legal representatives, in accordance with this assignment, any and all United States Letters Patent on said inventions or improvements, or any of them, disclosed in said application;

Authorize said Assignee, HAMILTON BEACH/PROCTOR-SILEX, INC., its successors, assigns and legal representatives, to apply in its own name in any foreign country for a patent, inventor's certificate, design registration or the like intellectual property right for said inventions or improvements, and sell, assign and transfer to said Assignee, HAMILTON BEACH/PROCTOR-SILEX, INC., its successors, assigns and legal representatives, all rights of priority obtainable on the basis of the International Convention for the Protection of Industrial Property;

Agree that, when requested, without charge to but at the expense of said Assignee, HAMILTON BEACH/PROCTOR-SILEX, INC., its successors, assigns and legal representatives, to carry out in good faith the intent and purpose of this assignment, I will, for all countries, execute all continued prosecution, divisional, continuing, substitute, renewal, reissue, reexamination, and all other patent applications on any and all said inventions or improvements; execute all rightful oaths and other papers; communicate to said Assignee, HAMILTON BEACH/PROCTOR-SILEX, INC., its successors, assigns and legal representatives, all facts known to us relating to said inventions or improvements and the history thereof; testify in all legal proceedings; and generally do everything possible which said Assignee, HAMILTON

BEACH/PROCTOR-SILEX, INC., its successors, assigns or legal representatives shall consider desirable for aiding in securing, maintaining and enforcing proper patent protection for said inventions or improvements and for vesting title to said inventions or improvements and all applications for patents, inventor's certificates, design registrations and the like intellectual property rights, and all patents, inventor's certificates, design registrations and the like intellectual property rights, on said inventions or improvements, in said Assignee, HAMILTON BEACH/PROCTOR-SILEX, INC., its successors, assigns and legal representatives;

Appoint said Assignee, HAMILTON BEACH/PROCTOR-SILEX, INC., to be Assignor's attorney-in-fact to execute assignments and other documents and do lawful acts related to the interest conveyed herein that may be reasonably necessary or desirable to secure, maintain and enforce any and all patents, inventor's certificates, design registrations and the like intellectual property rights for said inventions or improvements and Assignor's title thereto, provided that such assignments, documents and lawful acts shall not be inconsistent with the terms and conditions of this Agreement; and

Covenant with said Assignee, HAMILTON BEACH/PROCTOR-SILEX, INC., to be Assignee's attorney-in-fact to execute assignments and other documents and do lawful acts related to the interest conveyed herein that may be reasonably necessary or desirable to secure, maintain and enforce any and all patents, inventor's certificates, design registrations and the like intellectual property rights for said inventions or improvements and Assignor's title thereto, provided that such assignments, documents and lawful acts shall not be inconsistent with the terms and conditions of this Agreement; and

Covenant with said Assignee, HAMILTON BEACH/PROCTOR-SILEX, INC., its successors, assigns, and legal representatives that we have made to others no assignment, grant, mortgage, license, or other agreement affecting the rights and property, herein conveyed, and that we have full right to convey the same as herein expressed.

Nhiem V. Nguyen
Nhiem Viet Nguyen

STATE OF Virginia :
: ss.
COUNTY OF Henrico :

Before me, this 24th day of June, 2002, personally appeared **Nhiem Viet Nguyen** known to be the person who is described in and who executed the above instrument, and he acknowledged to me that he executed the same of his own free will for the purposes therein set forth.

Stephan B. Walker
Notary Public
My Commission Expires November 30, 2005



Assignments on the Web > Patent Query

Patent Assignment Abstract of Title

NOTE: Results display only for issued patents and published applications. For pending or abandoned applications please consult USPTO staff.

Total Assignments: 4

Patent #: 6559423

Issue Dt: 05/06/2003

Application #: 10080796

Filing Dt: 02/22/2002

Publication #: 20020113053

Pub Dt: 08/22/2002

Inventors: Nhiem Viet Nguyen, John J. Datovech, James Gaynor

Title: TOASTER CHASSIS ASSEMBLY WITH IMPROVED FOOD SUPPORT AND SAFETY MECHANISM

Assignment: 1

Reel/Frame: 012630/0924

Recorded: 02/22/2002

Pages: 5

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignors: NGUYEN, NHIEM VIET

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Exec Dt: 02/21/2002

GAYNOR, JAMES

Exec Dt: 02/21/2002

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Assignment: 2

Reel/Frame: 013625/0034

Recorded: 01/08/2003

Pages: 6

Conveyance: NOTICE OF GRANT OF SECURITY INTEREST

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Exec Dt: 12/17/2002

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Assignment: 3

Reel/Frame: 019399/0687

Recorded: 06/07/2007

Pages: 103

Conveyance: SECURITY AGREEMENT

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Exec Dt: 05/31/2007

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Assignment: 4

Reel/Frame: 020174/0160

Recorded: 11/29/2007

Pages: 10

Conveyance: CHANGE OF NAME (SEE DOCUMENT FOR DETAILS).

Assignor: HAMILTON BEACH/PROCTOR-SILEX, INC.

Exec Dt: 09/28/2007

Assignee: HAMILTON BEACH BRANDS, INC.

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